

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

BOARD OF TRUSTEES OF THE GREATER )  
ST. LOUIS SERVICE EMPLOYEES PENSION TRUST, )  
  )  
and   )  
  )  
THE GREATER ST. LOUIS SERVICE EMPLOYEES )  
PENSION TRUST                                  )  
  )  
Plaintiffs,                                    )  
  )  
v.  )  
  ) Case No. 4:19-cv-00213  
CHRISTIAN WOMAN'S BENEVOLENT )  
ASSOCIATION D/B/A CHRISTIAN CARE CENTER )  
  )  
Defendant.                                    )

Serve:

Missouri Secretary of State  
600 West Main Street  
Jefferson City, MO 65101

Michael F. Flanagan, Esq.  
Flanagan & Associates, L.L.C.  
7611 State Line Road, Suite 303  
Kansas City, MO 64114

**COMPLAINT**

**INTRODUCTION**

1. This is an action to collect a sum of withdrawal liability and delinquent contributions that the Defendant owes to Plaintiff Greater St. Louis Service Employees Pension Trust (hereinafter referred to as the "Pension Fund"). The action is brought pursuant to Section 502(a)(3) of the Employee Retirement Income Security Act as amended by the Multiemployer Pension Plan Amendments Act of 1980 (hereinafter "ERISA"), 29 U.S.C. § 113(a)(3).

JURISDICTION AND VENUE

2. The Court has jurisdiction of this action under the terms of Section 4301(c) of ERISA, 29 U.S.C. § 1451(c), and Section 502(e)(1) of ERISA, 29 U.S.C. § 1132(e)(1).

3. This Court has venue over this action pursuant to Section 4301(d) of ERISA, 29 U.S.C. § 1451(d), and Section 502(e)(2) of ERISA, 29 U.S.C. § 1132(e)(2), because the Defendant resides in this District.

PARTIES

4. The Pension Fund is a trust fund established and maintained pursuant to Section 302(c)(5) of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. § 186(c)(5). The Pension Fund is an employee benefit plan within the meaning of Sections 3(2) and 3(3) of ERISA, 29 U.S.C. § 1002(2) and (3), and is maintained for the purpose of providing retirement and related benefits to eligible participants. The Pension Fund is also a multiemployer pension plan within the meaning of Section 3(37) of ERISA, 29 U.S.C. § 1002(37).

5. The Board of Trustees of the Greater St. Louis Service Employees Pension Trust (hereinafter referred to as "Plaintiff Trustees") are fiduciaries within the meaning of Section 3(21)(A) of ERISA, 29 U.S.C. § 1002(21)(A).

6. Plaintiffs maintain their principal place of business at 5585 Pershing Avenue, Suite 170, St. Louis, Missouri 63112. The Pension Fund is administered at that location.

7. Plaintiffs bring this action on behalf of themselves and on behalf of the Pension Fund's participants and beneficiaries pursuant to Sections 502 and 4301 of ERISA, 29 U.S.C. §§ 1132 and 1451.

8. At all times material hereto, Defendant Christian Woman's Benevolent Association, doing business as Christian Care Center, (hereinafter referred to as "Christian

Care”), was a corporation residing or doing business in the State of Missouri, at 800 Chambers Rd., St. Louis, MO 63135, and is an employer in an industry affecting commerce within the meaning of Sections 3(5), 3(11) and 3(12) of ERISA, 29 U.S.C. § 1002(5), (11), and (12).

**STATEMENT OF CLAIM**

9. Until on or about May 31, 2006, Christian Care was a participating employer in the Pension Fund and was obligated to make contributions to fund benefits for employees covered by the Pension Fund pursuant to a collective bargaining agreement, the Agreement and Declaration of Trust of the Pension Fund, and Section 515 of ERISA, 29 U.S.C. § 1145.

10. On or about May 31, 2006, Christian Care completely withdrew from participation in the Pension Fund within the meaning of Section 4203 of ERISA, 29 U.S.C. § 1383.

11. On August 31, 2006, the Pension Fund experienced a mass withdrawal and plan termination within the meaning of Section 4041A(a)(2) of ERISA, 29 U.S.C. § 1341a(a)(2).

12. As a result of Christian Care’s May 31, 2006 complete withdrawal and the Pension Fund’s August 31, 2006 mass withdrawal, Christian Care is obligated to pay initial withdrawal liability, redetermination liability, and reallocation liability to the Pension Fund, as required by Section 10.03(d) of the Pension Fund Plan Document, Sections 3 and 4 of the Pension Fund’s Employer Withdrawal Liability Regulations, Sections 4201(a) and 4219(c)(1)(D) of ERISA, 29 U.S.C. §§ 1381(a) and 1399(c)(1)(D), and PBGC Regulations, 29 C.F.R. § 4219.12(a)-(c).

13. On October 4, 2006, the Pension Fund sent a Notice and Demand for Payment of Withdrawal Liability to Christian Care which included a calculation of Christian Care’s initial withdrawal liability of \$934,271 and a 20-year schedule of quarterly withdrawal liability

payments of \$4,234 and notified Christian Care that a mass withdrawal had occurred effective August 31, 2006, pursuant to Section 4(a) of the Pension Fund's Employer Withdrawal Liability Regulations, Section 4219(b)(1) of ERISA, 29 U.S.C. § 1399(b)(1), and PBGC Regulations, 29 C.F.R. § 4219.16(a).

14. On February 16, 2018, the Pension Fund sent a Notice of Redetermination and Reallocation Liability to Christian Care which included a calculation of Christian Care's redetermination liability of \$57,146 and reallocation liability of \$228,641 and notified Christian Care of its obligation to pay the quarterly withdrawal liability payment of \$4,234 in perpetuity, pursuant to Section 4 of the Pension Fund's Employer Withdrawal Liability Regulations, Section 4219(c)(1)(D) of ERISA, 29 U.S.C. § 1399(c)(1)(D) and PBGC Regulations, 29 C.F.R. §§ 4219.11- 4219.16.,

15. Christian Care failed to pay the quarterly withdrawal liability payment of \$4,234 that was due on September 1, 2018.

16. By letter dated September 27, 2018, Counsel for the Pension Fund notified Christian Care of its failure to pay the September 1, 2018 quarterly withdrawal payment, pursuant to Sections 4(b) and (e) of the Pension Fund's Employer Withdrawal Liability Regulations, Section 4219(c)(5)(A) of ERISA, 29 U.S.C. § 1399(c)(5)(A), and PBGC Regulations, 29 C.F.R. § 4219.31(b).

17. On November 16, 2018, the Circuit Court of Cole County, State of Missouri, in an action styled: *State of Missouri ex rel. Josh Hawley, Attorney General, at the request of the Missouri Department of Health and Senior Services, Division of Long Term Regulation & Licensure, Section for Long-Term Care Regulation, vs. Christian Woman's Benevolent Association, d/b/a Christian Care Home,,* Case No. 18AC-CC00461, entered an Order

Appointing Receiver (the "Receivership Order") appointing Michael F. Flanagan as the duly appointed receiver for Christian Care.

18. By letter dated November 28, 2018, the Pension Fund notified Christian Care that it was in default due to its failure to cure the delinquent September 1, 2018 quarterly withdrawal liability payment and because a receiver was appointed to operate Christian Care and that the outstanding amount of Christian Care's Mass Withdrawal Liability, which is currently \$1,016,826 (initial withdrawal liability of \$934,271, redetermination liability of \$57,146 and reallocation liability of \$228,641 less payments received of \$203,232), was immediately due and payable, pursuant to Section 4(e) of the Pension Fund's Employer Withdrawal Liability Regulations, Section 4219(c)(5)(A) of ERISA, 29 U.S.C. § 1399(c)(5)(A), and PBGC Regulations, 29 C.F.R. § 4219.31(b).

19. To date, Christian Care has failed to cure the delinquent September 1, 2018 quarterly withdrawal liability payment or make any subsequent quarterly withdrawal liability payments.

20. Pursuant to Section 4(e) of the Pension Fund's Employer Withdrawal Liability Regulation, Sections 4219(c)(5)(A) and 502(g)(2) of ERISA, 29 U.S.C. §§ 1399(c)(5)(A) and 1132(d)(2), and PBGC Regulations, 29 C.F.R. §§ 4219.31(b) and 4219.32, Christian Care is in default and, therefore, is liable to the Pension Fund for:

- a. \$1,016,826 in outstanding mass withdrawal liability;
- b. The greater of (i) double interest on the \$1,016,826 in outstanding mass withdrawal liability accruing as of September 1, 2018; or (ii) interest on the \$1,016,826 in outstanding mass withdrawal liability accruing as of September 1, 2018 plus liquidated damages in the amount of 20% of the \$1,016,826 in outstanding mass withdrawal liability; and

c. Plaintiffs' reasonable attorneys' fees and costs.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for an order and judgment against Christian Care providing for:

- A. Payment of the \$1,016,826 in outstanding mass withdrawal liability owed to the Pension Fund;
- B. Payment of the greater of (i) double interest on the \$1,016,826 in outstanding mass withdrawal liability accruing as of September 1, 2018; or (ii) interest on the \$1,016,826 in outstanding mass withdrawal liability accruing as of September 1, 2018 plus liquidated damages in the amount of 20% of the \$1,016,826 in outstanding mass withdrawal liability;
- C. Payment of Plaintiffs' reasonable attorneys' fees and costs incurred in prosecuting this matter; and
- D. For such further relief as the Court deems just, equitable and appropriate.

*/s/ Matthew B. Leppert*

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